Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Creation of a Low Power Radio Service	)	MM Docket No. 99-25
	)	
	)	

COMMENTS OF
ARSO RADIO CORPORATION

Arso Radio Corporation ("ARSO")[1] submits these comments in response to the Commission's *Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking and Fourth Order on Reconsideration*[2] (*"LPFM Order").*

The *LPFM Order* invites comments, in paragraph 41, with respect to the intent of Congress, in passing the Local Community Radio Act of 2010[3] ("LCRA"), to include the territories and possessions of the United States in the definition of "States" for the purposes of Section 7(6) of the LCRA. Specifically, Section 7(6) of the LCRA directs the Commission to create special interference protections for "full-service FM stations that are licensed in significantly populated ***States*** (emphasis added) with more than 3,000,000 population and a population density greater than 1,000 people per square mile land area." The obligations apply only to LPFM stations licensed after the enactment of the LCRA. Such stations must remediate actual interference to full-service FM stations licensed to the significantly populated states specified in Section 7(6) and "located on third-adjacent, second-adjacent, first-adjacent or co-channels" to the LPFM station and

[1] Arso is an FCC licensee of broadcasting facilities located in Puerto Rico.
[2] *Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking and Fourth Order on Reconsideration Notice of Proposed Rulemaking* in MB Docket No. 99-25 (rel. March 19, 2012)("*LPFM Order*")
[3] Pub. L. No. 111-371, 124 Stat. 4072 (2011).

must do so under the interference and complaint procedures set forth in Section 74.1203 of the FCC's rules[4].

As noted by the Commission in the *LPFM Order*, the only jurisdictions in which the additional protections afforded by Section 7(6) of the LCRA would currently qualify are New Jersey and Puerto Rico, but the Commission found that the use of the word "States" in the statutory language created an ambiguity as to the Congressional intent to have Section 7(6) of the LCRA apply to the territories and possessions of the United States. An examination of the legislative history of HR.6533 (the LCRA) prior to its passage does not yield any clues as to the congressional intent regarding the use of the word "States", but does reference prior efforts to pass similar legislation in previous sessions of Congress.

It should be noted that the language used in Section 7(6) of the LCRA mirrors that in prior incarnations of the LCRA that were introduced but not passed in Congress, in particular Section 8 of S.592 (the Senate version of the 2009 LCRA bill) and Section 8 of S.1675 (the Senate version of the 2007 LCRA bill). In both prior versions, the language referred to existing FCC regulations, and thus Arso believes that the answer to the question of congressional intent regarding the use of the word "States" lies in prior legislation related to the Commission.

In particular, Arso would suggest that Congress intended to use the word "States" as same is defined in 47 U.S.C. §153(47), which provides, that for the purposes of Title 47, Chapter 5 (Wire or Radio Communication), the following definitions apply:
"(47) **State** -The term "State" includes the District of Columbia and the Territories and possessions."

[4] 47 C.F.R. §74.1203

Inasmuch as the LCRA directed the FCC to take certain actions to modify its rules relating to "Wire or Radio Communication" under Title 47, Chapter 5, it would be consistent with the definition of "States" in the context of regulatory authority for Congress to intend to encompass not only the 50 states in Section 7(6) of the LCRA but also the District of Columbia, Puerto Rico, Guam, the US Virgin Islands and the other territories and possessions in which the Commission regulates "wire or radio communications".

That conclusion is consistent with other jurisdictional aspects of the Commission's authority over the District of Columbia, and the other territories and possessions of the United States, including Puerto Rico.

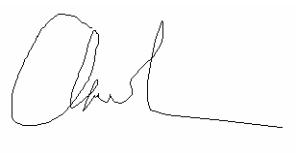
Thus, given the logical conclusion to the question of Congressional intent to the use of the word "States" and the lack of any legislative history to suggest any other alternative, it would thus be apparent that the provisions of Section 7(b) of the LCRA that provides third adjacent, second adjacent, first adjacent and co-channel interference protection to full service FM stations from LPFM facilities licensed after January 4, 2011 (the date of enactment of the LCRA) should be applicable, as noted in the *LPFM Order*, to New Jersey and Puerto Rico, as those two jurisdictions are the only two that currently meet the threshold population and population density requirements of the LCRA.

Conclusion

For the foregoing reasons, ARSO suggests that the Commission conclude that Congress intended to include the District of Columbia along with the US territories and possessions in its use of the phrase "States" in connection with Section 7(6) of the LCRA and that the Commission enact rules that implement that intent in providing interference

protection as prescribed in the LCRA to full service FM stations licensed to New Jersey and Puerto Rico consistent with the provisions of the *LPFM Order*.

Respectfully Submitted



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